

1. The claimant, Jeanette C. Davis, was injured on May 20, 1999, when a car struck her while she was attempting to break up a fight between her sister and several other individuals. The driver of the car was one of the individuals involved in the fight.
2. On the date of injury, Ms. Davis was working for Evcon Industries, Inc., as a forklift driver. During her lunch break she noticed her sister fighting in the company parking lot. Ms. Davis then went to the parking lot and tried to stop the fight. One of the individuals involved in the fight then struck Ms. Davis with a car.

CONCLUSIONS OF LAW

1. The Order denying benefits should be affirmed.
2. The Judge found that the injury did not arise out of Ms. Davis' employment. The Appeals Board agrees.
3. An injury must arise out of and occur in the course of a worker's employment to be compensable under the Workers Compensation Act.¹
4. For an assault stemming from a purely personal matter to be compensable, the worker must prove that the injuries sustained were exacerbated by an employment hazard.²
5. Based upon the present record, the Appeals Board concludes that Ms. Davis' injuries did not arise out of her employment with Evcon Industries, Inc. Instead, the injuries arose from an assault stemming from a personal matter unrelated to Ms. Davis' job or any employment hazard.

WHEREFORE, the Appeals Board finds that the July 30, 1999 Order should be affirmed.

IT IS SO ORDERED.

Dated this ____ day of September 1999.

BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS
Vincent A. Burnett, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director

¹ K.S.A. 44-501(a).

² Baggett v. B & G Construction, 21 Kan. App. 2d 347, 900 P.2d 857 (1995).